

HOUSE BILL 769

By Daniel

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 5, relative to the Uniform Administrative
Procedures Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-5-301, is amended by adding the following as a new, appropriately designated subsection:

Notwithstanding any provision of title 4, chapter 5, part 3, to the contrary, a contested case proceeding must be commenced by appeal of a person from an agency action within sixty (60) days of the occurrence of the action.

SECTION 2. Tennessee Code Annotated, Section 4-5-307, is amended by adding the following as a new, appropriately designated subsection:

The administrative judge or the hearing officer assigned to hear a case shall furnish to the appellant the number of cases to be heard and the order in which the appellant's contested case is to be heard at least seven (7) days prior to the date set for the hearing.

SECTION 3. Tennessee Code Annotated, Section 4-5-320(c), is amended by deleting the subsection and substituting instead the following:

(c)

(1) Except as authorized by subdivision (c)(4), a license may not be revoked, suspended, or withdrawn unless, prior to the institution of agency proceedings:

(A) The agency gave notice by mail to the licensee of facts or conduct that warrant the revocation, suspension, or withdrawal; and

(B) The licensee was permitted to show compliance with all requirements for the retention of the license.

(2) During an agency proceeding:

(A) All testimony shall be given under oath;

(B) A person who alleges misconduct by a licensee or by a person applying for a license, including a reinstated license, shall be physically present and be available to testify; and

(C) A person appearing before an agency may request a roll call vote on any action taken against the person.

(3) Unless otherwise prohibited, all decisions issued in a contested case hearing, either in an administrative hearing or by judicial review under this chapter shall be posted on the website of the agency that was a party in the contested case hearing.

(4) If an agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates the finding in its order, the agency may summarily suspend a license pending proceedings for revocation or other action.

(5) The proceedings set forth in this subsection (c) shall be promptly instituted and determined.

SECTION 4. Tennessee Code Annotated, Section 4-5-322, is amended by adding the following as a new, appropriately designated subsection:

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(1) If a person is denied an occupational license or certification by the final decision of an agency, whether reached in an administrative hearing or by judicial review, and that final decision is subsequently reversed on appeal, the person shall be awarded attorney fees, court costs, pre-judgment interest, post-

judgment interest, and lost wages from the agency, in addition to the costs authorized under § 4-5-325.

(2) Any lost wages awarded under subdivision () (1) shall only include income lost for the period in which the person was aggrieved by the final decision in the contested case hearing.

SECTION 5. Tennessee Code Annotated, Section 4-5-325(a), is amended by deleting the language "may order such agency to pay" and substituting instead the language "shall order such agency to pay".

SECTION 6. Tennessee Code Annotated, Section 4-5-325, is amended by deleting subsection (b) and substituting instead the following:

If a final decision in a contested case hearing results in a party seeking judicial review pursuant to § 4-5-322, the judge, at the conclusion of the hearing, may make the same findings and, upon such findings, shall enter the same order as required of the hearing officer or administrative law judge pursuant to subsection (a).

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.